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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,387	03/20/2007	Mikko Maijala	OHMAN-004	6478

32954 7590 11/16/2010
JAMES C. LYDON
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ALEXANDRIA, VA 22314

EXAMINER

MINSEY, JACOB T

ART UNIT	PAPER NUMBER
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1741

MAIL DATE	DELIVERY MODE
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11/16/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/561,387	Applicant(s) MAIJALA ET AL.	
	Examiner JACOB T. MINSKEY	Art Unit 1741	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 01 November 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 1-15 and 27-39.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Matthew J. Daniels/
Supervisory Patent Examiner, Art Unit 1741

Continuation of 11. does NOT place the application in condition for allowance because: The arguments of Applicant are not found to be persuasive. The first argument presented by the Applicant is that Klunness fails to teach activation either before or during the precipitation. The Examiner respectfully disagrees. First of all, the claims do not explicitly limit how the material is "activated." Secondly, Klunness details that the reaction vessel can be a known high shear mixing apparatus with "devil tooth" notches (see column 7 lines 16-41). This mixing step would with high shear steps would occur at the same time as precipitation, reading on the claim.

Another argument is that Klunness fails to teach a activation time of less than 10 seconds. In this regards. a small mistake was made in the previous office action. Klunness does not disclose an activation step of less than 1 second in the abstract, but instead this teaching is taught by Virtanen. This sentence was added to the incorrect paragraph, but the standing of the rejection is not affected by this as Virtanen expressly teaches this aspect as detailed in the reference and the reminder of the rejection.

Applicant further argues that Klunness does not disclose a gas space. In this regards, the Examiner respectfully disagrees. Klunness teaches that carbon dioxide gas is inserted into the reactor in enough quantity to react with all the calcium oxide (column 6 lines 38-59). The addition of gas implicitly teaches that a gas space is present. See also column 7 lines 16-41 where it is explicitly taught that the best way to contact the reaction materials with the gas is in an pressurized refiner that is gas tight. This refiner directly reads on the limitation of a reaction vessel that includes an activation zone (high shear refining aspects) that activates the pulp during precipitation.

The final argument is that the references are not combinable, and that they cannot be a simple substitution because they produce different products. In this regards the Examiner respectfully disagrees. Both references focus on the precipitation of calcium carbonate onto a carrier for use in a paper mill (column 1 line 20). Virtanen explicitly states that the precipitated materials can be precipitated onto a carrier of some form by simply providing the carrier in slurry form with the material and gas during precipitation (column 2 lines 51-68), which is the same thing that Klunness is doing. One of ordinary skill in the art at the time of the invention would have found the combination of references to be an obvious and simple substitution to accomplish the known end result.

The remaining arguments are focused on the discussions above and are not found persuasive by the Examiner.